THE HON'BLE SRI JUSTICE

C.V.RAMULU

W.P.No.22202 of 1996

Dated:07.2.2007

Between
1.D.Shiva Kumar and another.

.....Petitioner

and

1.The Chairman-cum-Managing Director
Bharat Dynamics Ltd., Kanchanbagh,
Hyderabad and another.

...Respondents

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ORDER:

Originally, this writ petition is filed seeking a Mandamus to declare the action of the respondent in not continuing the services of the petitioners in their respective posts, which they were holding until their termination, and also not regularizing their services, as arbitrary and illegal. Thereafter, the prayer in the writ petition was amended as under:

> "to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the respondents in terminating the services of the petitioners, instead of continuing and regularizing them in service in their respective

posts which they were holding until their termination, as wholly arbitrary, illegal, unjust and unconstitutional being violative of Articles 14,16,21 and 39 (d) of the Constitution of India and also contrary to the provisions of Section 2 (r)(a) and Chapters V-A and V-B of the Industrial Disputes Act, 1947 and consequently direct the respondents to reinstate the petitioners in service in their respective posts which they held until their termination and further regularize their services with applicable regular pay scale of salary and all other benefits attached to the said posts with all consequential benefits and also back wages and service benefits with effect from 1.1.1996 and 16.1.1996 respectively, ie., the respective date of termination from service of the 1st petitioner and the 2nd petitioner and pass any order or orders as may deem fit and proper in the circumstance of the case in the interest of justice."

In the amended prayer,

termination of the petitioners services is also challenged.

The petitioners have categorically asserted that they had put in more than 240 days of service preceding the date of termination of their services dated 31.12.1995. They have furnished the break up figures of the working days. The 1st and 2nd petitioners had put in two spells of their engagement in the respondent-organization as Casual Painter and Data Entry Operator respectively.

The grievance of the petitioners is that though they had put in more than 240 days continuous service, their services were not regularized and were terminated. Therefore, termination of their services by oral order dated 31.12.1995 is arbitrary and illegal.

A detailed counter-affidavit has been filed by the respondents. The

respondents have categorically admitted that in the year 1995, the 1st petitioner worked 268 days and the 2nd petitioner worked 240 days in 1995. Simply because they have worked 240 days, they cannot be absorbed into the services of the respondent-organization as a matter of right. Further, they are also not entitled for any compensation as contemplated under Section 25 (F) of the Industrial Disputes Act (for short 'the Act') and in fact, Section 25 (F) of the Act has no application to the case of the petitioners since they are casual employees. Therefore, they are neither entitled for absorption as a matter of right nor there is any violation of Section 25 (F) of the Act.

There is no necessity to go into all the details.

It is an admitted fact that that the petitioners had put in more than 240

days of service preceding the date of termination of their services i.e., 31.12.1995. It is also an admitted fact that the provisions of Section 25 (F) of the Act are not invoked by the respondents. Once this is so, the termination of the petitioners from service is in gross violation of the provisions of Section 25 (F) of the Act.

Therefore, the oral order of termination dated 31.12.1995 is declared as null and void and the respondents are directed to reinstate the petitioners into service with continuity of service within a period of one month from the date of receipt of a copy of this order and all consequential benefits shall be paid to them, within two months thereafter.

Writ petition is accordingly, allowed. No costs.

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07-02-2007

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